

even though no amount has been charged off within the taxable year. The purpose of these temporary regulations is to preserve the portion of a taxpayer's bad debt deduction with respect to a partially worthless debt that corresponds to the amount the taxpayer would have been entitled to deduct for partial worthlessness with respect to the modified debt if the book basis of the modified debt were increased to the same extent as the tax basis of that debt. Thus, these temporary regulations apply only if all of the following conditions are satisfied. First, a significant modification of a debt instrument (within the meaning of § 1.1001-3) must result in a taxpayer's recognition of gain under § 1.1001-1(a). In addition, the debt must have been previously charged off and deducted by the taxpayer, and the prior charge-off and deduction must have satisfied the requirements of § 1.166-3(a)(1) and (2). If these conditions are satisfied, then a modified debt is deemed to have been charged off in the year in which gain is recognized. The amount of the charge-off, however, is limited to the difference between the tax basis of the debt and the greater of the book basis or the fair market value of the debt.

Both the proposed and the final regulations under § 1.1001-3 deal only with modifications of debt instruments. In response to comments on the proposed regulations, however, the temporary regulations contained in this document provide a limited rule dealing with a dealer's assignment of its position in an interest rate or commodity swap, or other notional principal contract to another dealer. If the assignment is permitted by the terms of the contract, the assignment will not be treated as a deemed exchange by the nonassigning party of the original contract for a new contract that differs materially either in kind or in extent. Thus, an assignment to which the rule applies does not trigger gain or loss to the dealer's counterparty. No inference is intended with respect to whether an assignment of rights by one party to other types of bilateral contracts results in an exchange or other disposition under section 1001 by the nonassigning party.

Effective Dates

The temporary regulations apply to significant modifications of debt instruments and assignments of interest rate swaps, commodity swaps, and other notional principal contracts occurring on or after September 23, 1996.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of the regulations concerning the modification of bad debts is Craig R. Wojay, Office of the Assistant Chief Counsel (Financial Institutions and Products), IRS. The principal author of the regulations concerning the dealer assignments of certain notional principal contracts is Thomas J. Kelly, Office of the Assistant Chief Counsel (Financial Institutions and Products), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.166-3T is added to read as follows:

§ 1.166-3T Partial or total worthlessness (temporary).

(a)(1) and (2) [Reserved]. For guidance, see § 1.166-3(a)(1) and (2).

(3) *Significantly modified debt*—(i) *Deemed charge-off*. If a significant modification of a debt instrument (within the meaning of § 1.1001-3) during a taxable year results in the recognition of gain by a taxpayer under § 1.1001-1(a), and if the requirements of paragraph (a)(3)(ii) of this section are met, there is a deemed charge-off of the debt during that taxable year in the

amount specified in paragraph (a)(3)(iii) of this section.

(ii) *Requirements for deemed charge-off*. A debt is deemed to have been charged off only if—

(A) The taxpayer (or, in the case of a debt that constitutes transferred basis property within the meaning of section 7701(a)(43), a transferor taxpayer) has claimed a deduction for partial worthlessness of the debt in any prior taxable year; and

(B) Each prior charge-off and deduction for partial worthlessness satisfied the requirements of paragraphs (a)(1) and (2) of this section.

(iii) *Amount of deemed charge-off*. The amount of the deemed charge-off, if any, is the amount by which the tax basis of the debt exceeds the greater of the fair market value of the debt or the amount of the debt recorded on the taxpayer's books and records reduced as appropriate for a specific allowance for loan losses. The amount of the deemed charge-off, however, may not exceed the amount of recognized gain described in paragraph (a)(3)(i) of this section.

(iv) *Effective date*. This paragraph (a)(3) is effective September 23, 1996.

(b) [Reserved]. For further guidance, see § 1.166-3(b).

Par. 3. Section 1.1001-4T is added to read as follows:

§ 1.1001-4T Modifications of certain notional principal contracts.

(a) *Dealer assignments*. For purposes of § 1.1001-1(a), the substitution of a new party on an interest rate or commodity swap, or other notional principal contract (as defined in § 1.446-3(c)(1)) is not treated as a deemed exchange by the nonassigning party of the original contract for a modified contract that differs materially either in kind or in extent if—

(1) The party assigning its rights and obligations under the contract and the party to which the rights and obligations are assigned are both dealers in notional principal contracts, as defined in § 1.446-3(c)(4)(iii); and

(2) The terms of the contract permit the substitution.

(b) *Effective date*. This section is effective September 23, 1996.

Margaret Milner Richards,
Commissioner of Internal Revenue.

Approved: May 31, 1996.

Leslie Samuels,

Assistant Secretary of the Treasury.

[FR Doc. 96-15829 Filed 6-24-96; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF TRANSPORTATION**Saint Lawrence Seaway Development Corporation****33 CFR Chapter IV****46 CFR Chapter III****Great Lakes Pilotage; Consolidation of Regulations**

AGENCY: Saint Lawrence Seaway Development Corporation, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard's responsibility for administering the Secretary's functions under the Great Lakes Pilotage Act of 1960, as amended, (the Act) was transferred from the Coast Guard to the Saint Lawrence Seaway Development Corporation (SLSDC) on December 11, 1995. This rule moves the Great Lakes Pilotage Regulations from Title 46, Code of Federal Regulations, to Title 33, Code of Federal Regulations. This rule is necessary to consolidate all regulations administered by the SLSDC.

EFFECTIVE DATE: June 25, 1996.

FOR FURTHER INFORMATION CONTACT:

Marc C. Owen, Chief Counsel, Saint Lawrence Seaway Development Corporation, United States Department of Transportation, 400 7th Street SW., Washington, DC 20590, room 5424, 1-800-785-2779, or Scott A. Poyer, Chief Economist, Saint Lawrence Seaway Development Corporation, Office of Great Lakes Pilotage, United States Department of Transportation, 400 7th Street SW., Washington, DC 20590, room 5421, 1-800-785-2779.

SUPPLEMENTARY INFORMATION: By final rule published in the Federal Register on December 11, 1995 (60 FR 63444), the Coast Guard's responsibility for administering the Secretary's functions under the Great Lakes Pilotage Act of 1960, as amended, (the Act) was transferred to the Saint Lawrence Seaway Development Corporation (SLSDC), effective on the date of publication.

This rule moves the Great Lakes Pilotage Regulations from Chapter III of Title 46, Code of Federal Regulations (46 CFR Parts 401-404), to Title 33, Code of Federal Regulations, Chapter IV as Parts 404-407. Chapter III of Title 46, Code of Federal Regulations, is removed in its entirety and vacated. This rule also amends references to the regulations that have been moved and renumbers those references in accordance with their new location in the Code of Federal Regulations, and amends the Authority citation for each part. This rule is necessary to

consolidate all regulations administered by the SLSDC.

Since this rule relates to departmental management, organization, procedure, and practice, notice and public comment are unnecessary. For the same reason, good cause exists for not publishing this rule at least 30 days before its effective date, as is ordinarily required by 5 U.S.C. 553(d). Because the transfer of Great Lakes Pilotage responsibility has already occurred, it is necessary to reflect redesignation in the Code of Federal Regulations immediately. Accordingly, this rule is effective on the date of its publication in the Federal Register.

For reasons set out in the preamble and under the authority of 49 U.S.C. 322 and 49 CFR 1.52, the Saint Lawrence Seaway Development Corporation is amending 33 CFR Chapter IV, and removing 46 CFR Chapter III as follows:

1. Parts 401, 402, 403, and 404 of 46 CFR chapter III are redesignated as parts 404, 405, 406, and 407, respectively, and transferred to 33 CFR chapter IV and 46 CFR chapter III is vacated.

33 CFR CHAPTER IV**PART 404—[AMENDED]**

2. The authority citation for new part 404, Title 33, Code of Federal Regulations is revised to read as follows:

Authority: 46 U.S.C. 6101, 7701, 8105, 9303, 9304; 49 CFR 1.45, 1.52. 33 CFR 404.105 also is issued under the authority of 44 U.S.C. 3507.

PART 405—[AMENDED]

3. The authority citation for new part 405, Title 33, Code of Federal Regulations is revised to read as follows:

Authority: 46 U.S.C. 8105, 9303, 9304; 49 CFR 1.52.

PART 406—[AMENDED]

4. The authority citation for new part 406, Title 33, Code of Federal Regulations is revised to read as follows:

Authority: 46 U.S.C. 8105, 9303, 9304; 49 CFR 1.52.

PART 407—[AMENDED]

5. The authority citation for new part 407, Title 33, Code of Federal Regulations is revised to read as follows:

Authority: 46 U.S.C. 8105, 9303, 9304; 49 CFR 1.52.

6. In the following new sections of 33 CFR chapter IV, references to part 401 in the text of each section are amended to reference part 404:

33 CFR Sections

404.210(a)(8)

404.210(b)
404.211(a)(1), (b) and (e)
404.230(e)
404.240(b)
404.320(b)
404.330(a)
404.335(a)(1)
404.340 (a) and (c)
404.400(c)
404.405 introductory text
404.410(a) introductory text
404.420(a)
404.425
404.428
404.431(a), (f) and (g)
404.451(a)(1)
404.600(b)
404.620(b)
404.645
404.700(b)
404.710(e)
404.720(b)
405.100
405.210(a)
405.320(a) introductory text
406.100
406.400(c)
407.1(a)

7. In the following new sections of 33 CFR chapter IV, references to part 402 in the text of each section are amended to reference part 405:

33 CFR Sections

404.340(a)
404.710 (d) and (e)

8. In the following new sections and parts of 33 CFR chapter IV, references to part 403 in the text of each section are amended to reference part 406:

33 CFR Sections and Parts

404.320(d)(3)
Part 407, Appendix A, Step 1.A.

9. In the following new sections and parts of 33 CFR chapter IV, references to part 404 in the text of each section are amended to reference part 407:

33 CFR Sections and Parts

406.120(b)
407.1(b)
407.10(a)
Part 407, Appendix A, Step 1.B.
Part 407, Appendix C, introductory text

§ 404.250 [Amended]

10. In 33 CFR 404.250(d), the term "Part 137 of this title" is revised to read "46 CFR part 137".

Issued at Washington D.C. on June 4, 1996.
Saint Lawrence Seaway Development Corporation.

Gail C. McDonald,
Administrator.

[FR Doc. 96-14637 Filed 6-24-96; 8:45 am]

BILLING CODE 4910-61-P